

THE VIRGINIA BOARD OF COUNSELING
QUARTERLY BOARD MEETING
DRAFT MINUTES
Friday, November 5, 2010

The Virginia Board of Counseling ("Board") convened at 9:05 a.m. on Friday, October 5, 2010 at the Department of Health Professions, 9960 Mayland Drive, Richmond, Virginia. Dr. Conner called the meeting to order.

**BOARD MEMBERS
PRESENT:**

Mary Lou Argow
Johnston Brendel, EdD
Donnie Conner, PhD
Michael Fletcher
Sandra Malawer
Charlotte Markva
Patricia Mullen
William Scott, PhD
Catherine Schwaery
Linda Seeman, PhD
John Penn Turner

**BOARD MEMBERS
ABSENT:**

Zena Bowen
Sandra Malawer

STAFF PRESENT:

Evelyn B. Brown, Executive Director
Howard Casway, Senior Attorney General
Catherine Chappell, Dep. Exec. Director - Licensing
Patricia Larimer, Dep. Exec. Director - Discipline
Arne Owens, DHP Chief Deputy Director
Dianne Reynolds-Cane, DHP Director
Elaine Yeatts, Senior Policy Analyst

ORDERING OF AGENDA:

Dr. Conner welcomed the Board members and asked if there were any changes to the Agenda. The Agenda was accepted as written.

APPROVAL OF MINUTES:

Dr. Brendel moved to approve the minutes from the August 6, 2010 Board meeting. The motion was seconded and passed.

COMMITTEE ASSIGNMENTS:

Dr. Conner announced the following committee assignments and thanked new Board members for their support:

Executive Committee: Donnie Conner, Chair; John Penn Turner, Vice-Chair; Mary Lou Argow, BHP member; and Linda Seeman, past Chair.

Continued Competency Committee: William Scott, Chair; Patricia Mullen

Credentials Committee: Mary Lou Argow, Co-Chair; Johnston Brendel, Co-Chair; Zena Bowen; Charlotte Markva; Charles McAdams; John Penn Turner

Discipline Committee: Donnie Conner, Co-Chair; Linda Seeman, Co-Chair; Zena Bowen; Johnston Brendel; Sandra Malawer; Patricia Mullen; William Scott; John Penn Turner

Regulatory Committee: Charles McAdams, Chair; Mary Lou Argow; Donnie Conner; Michael Fletcher; Charlotte Markva; Linda Seeman

Board of Health Professions: Mary Lou Argow

OCTOBER 1 EDUCATIONAL SUMMIT

Dr. Conner remarked that the second Educational Summit was well received and well attended by faculty and board members. An additional Summit is planned, with a new topic to be added, entitled "Since last time". He added that the Summit presentation was accepted by the AASCB as a result of national interest in what the Virginia Board is offering to representatives of graduate programs in Virginia. The Summit was viewed as a proactive response for schools whereby they would pass information back to their students regarding licensure requirements.

Dr. Scott commented that discussion was held concerning supervisory responsibilities and expectations of offsite supervision. He asked that the Board examine the responsibilities of offsite supervisors due to challenges in providing adequate feedback on confidential caseloads.

AGENCY DIRECTOR'S REPORT:

Dr. Reynolds-Cane spoke on the success of the September 16, 2010 Physician's Data telephonic phone briefing to the media in which forecasted workforce numbers were presented.

DHP was involved in the National Take Back Day Initiative, sponsored by the DEA. This event provided an opportunity for the public to surrender expired, unwanted, or unused pharmaceutical controlled substances and other medications for destruction.

DHP is hosting Freedom of Information Act training for 60-70 DHP staff members. On behalf of the new Virginia Health Workforce Development Authority (VHWDA), the Department of Health submitted a proposal for and received a Healthcare Workforce Implementation grant totaling \$1.9 million for the next two years with an option for a third. They will be collaborating with DHP's Healthcare Workforce Data Center.

Dr. Cane remarked that the Virginia Information Technology Agency (VITA)'s summer computer failure had affected the Prescription Monitoring Program (PMP). However down time was minimal in part because PMP's data is housed on servers that are on-site at DHP. Dr. Cane also reported that VITA has begun to charge for data storage and recovery which are unbudgeted items.

Mr. Owens commented that New Board Member Orientation was held for October 27th and was attended by board members appointed since 2008. The board members received an overview of DHP and learned about their role as a board member.

PUBLIC COMMENT:

None.

EXECUTIVE DIRECTOR'S REPORT:

Staff Updates: Ms. Brown commented that interviews for two vacant administrative assistant positions for the Boards of Counseling and Social Work would be held soon and the positions should be filled by the Board's next meeting in February. Because of the two boards' unique apprentice programs, the application process is labor intensive and a substantial increase in applications and registrations has been noted. Staff training is anticipated with the goal being to increase productivity and provide complete files so that timely decisions can be made by the Credentials Reviewers. She commented that an additional Credentials Reviewer is needed to address the current work load.

She added that Ms. Chappell's position had been converted from Operations Manager to Deputy Executive Director for Licensure for the Boards of Counseling, Psychology and Social Work and that she would supervise the three administrative assistants in their licensing and board support functions. Ms. Larimer's role as Deputy Executive Director for Discipline for the Boards had not changed.

Ms Brown thanked the Director and Chief Deputy for their support by approving an additional administrative assistant position for the boards. She also acknowledged the hard work and long hours of work by Ms. Chappell during the existing staff shortage.

Department of Veterans Affairs/LPC: In follow up to previous Board discussion of reimbursement issues and concerns regarding Tricare, Ms. Brown distributed an email forwarded by Christine Reid, faculty member of the VCU School of Rehabilitation

Counseling, from Scott Barstow of the American Counseling Association, in which he advocated for counselors to obtain Medicaid coverage.

Dr. Seeman inquired about the Board's request for staff to draft a letter to Tricare regarding reimbursement for counseling services and the need to obtain parity with other mental health providers. Ms Brown commented that the letter had not been drafted as DHP was not the appropriate body for such correspondence. Ms. Yeatts commented that Board members as individuals may request clarification from Congress, but that if the Board wished to state its position, that the statement must be routed through the Commonwealth's Secretary of Health and Human Services to the Governor.

License Eligible Concerns: Mr. Casway and Ms. Brown advised that numerous requests have been received in the board office regard "license eligible" status. Mr. Casway noted that there is a misunderstanding with some government agencies and community service boards regarding the requirement that their trainees be deemed "license eligible". He added that this requirement was a Medicaid issue in an attempt to upgrade the level of services provided for therapy rendered in the home. A memorandum was issued in July regarding Medicaid policy but no regulations were approved to date. Mr. Casway indicated that Medicaid was attempting to redefine their criteria of "license eligible". Ms. Brown suggested that a guidance document be drafted defining counseling services while under supervision and presented a recent guidance document issued by the Board of Social Work in this regard. Mr. Casway advised that he would discuss the matter further with DMAS.

The Board agreed that a guidance document is needed to address the concern for obtaining supervision in a clinical setting in light of many private agencies providing services with unlicensed persons and potential for Medicaid reimbursement for services that are not being provided. Mr. Casway advised that he would continue to work with Medicaid's counsel to define and clarify the term "license eligible".

The Board further discussed that, with respect to regulated practice, an individual is either licensed or unlicensed. The Board does not define "license eligible".

Ms. Argow moved that the Board adopt a guidance document as a tool to capture the essential elements of the scope of counseling services and to define direct services to clients. The motion was seconded and carried.

DISCIPLINARY COMMITTEE REPORT:

Dr. Seeman reported that twelve (12) complaints were at the investigation stage, with sixteen (16) cases at the board level for probable cause review.

CREDENTIALS COMMITTEE REPORT:

Ms. Argow advised that the Credentials Committee met on November 4, 2010, to consider 13 application files with respect to degree requirements, coursework,

endorsement issues, and a felony conviction. The Committee denied six (6) of the applications and requested additional coursework from five (5) applicant. Two applications were approved.

The Committee discussed the need to prepare a guidance document to address documentation needed in order for resident to register supervision.

REGULATORY COMMITTEE:

Dr. McAdams requested that the Regulatory Committee convene in the next few weeks to address several issues arising from recent Credentials Committee findings and the need for vigorous training requirements while under supervision. He commented that a periodic review of regulations was also needed. The Regulatory Committee was tentatively scheduled for Friday, December 10, 2010.

Ms. Brown presented a Petition for Rulemaking in which an applicant requested that the Board amend the requirement for application fees in Regulation 18VAC115-20-20, to delineate the portion of the fee that applies towards initial licensure. The rationale was that if an applicant cannot complete his or her application and obtain licensure, that he or she only be charged for the application fee and can be refunded the license fee.

The Board discussed the Petition and determined that by having the licensure fee include the application fee, an applicant is able to be licensed immediately upon application approval. If the fees were separated, it would be necessary for the Board to notify an applicant that his/her application had been approved and a licensure fee was now due. A two-step process would likely delay licensure and the ability to practice the profession. The applications that are denied are typically those that are problematic and consume more staff and board resources that are represented by the application processing fee. Dr. Brendel moved that the Board deny the Petition. The motion was seconded and carried.

OLD BUSINESS:

There was no old business.

NEW BUSINESS:

Supervision Issues. Ms. Chappell provided insight into the day to day operations of the board office and noted a substantial increase in volume and complexity of applications and registrations received, A sense of urgency was noted in many applicants seeking to be under the Board's supervision in order to be deemed "license eligible". Many applicants lack the necessary degree and coursework to perform the duties of the requested supervised experience and many lack sufficient internship hours. All requests for registration are now sent to the contracted Credentials Reviewers for consideration. At that time, coursework is evaluated along with the job description and important feedback is provided to applicants.

Ms. Chappell requested that the Board draft a guidance document to provide a checklist to applicants to insure proper documentation is provided with registration of supervision. Mr. Turner moved that the Board provide a checklist to assist staff and applicants with the registration/application process. The motion was seconded and carried.

Pending Disciplinary Cases. Mr. Casway stated that as a result of denials issued by the Credentials Committee relating to applications which may have misrepresented supervision and clinical work, at least 35 informal conferences (IFC) would be scheduled. He suggested that the Board utilize an agency subordinate for some of the cases. The agency subordinate would need to be knowledgeable in the workings and issues of the Board. At the present time, the Board had only delegated cases relating to continuing education to agency subordinates. Such agency subordinate would provide a recommendation and rationale to the Board for decision.

Ms. Argow moved that the Board expand the use of an agency subordinate to hear cases relating to initial licensure appeals. The motion was seconded and carried.

A pool of volunteer Board members would be developed to serve as agency subordinates for the upcoming IFC's.

Board membership. Ms. Brown commented that plaques in recognition of Board service had been sent to board members: Vivian Sanchez, Eric McCollum and Natale Ward, whose terms expired on June 30, 2010. She noted that one board seat was still open due to the resignation of Eric McCollum.

ADJOURNMENT

There being no further business to come before the Board of Counseling, the meeting was adjourned at 11:35 a.m.

Donnie Conner, PhD, Chair

Evelyn B. Brown, Executive Director